

1 "MARK-UP"

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3 **Regulation 4.1 Applications; Education; Experience.**

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5 ***SUMMARY:***

6 *Amends existing regulation to clarify that real estate education from other approved*
7 *real estate licensing jurisdictions is acceptable as meeting Arkansas education*
8 *requirement for initial licensure.*

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11 (d) All classroom hours required by Regulation 4.1(a) and (b) shall be conducted by:

12 (1) An accredited postsecondary school wherever situated; or

13 (2) A school or organization licensed by the State Board of Private Career Education, or

14 (3) A school or organization approved by a real estate licensing jurisdiction deemed equivalent
15 by the Commission.

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4 **Regulation 10.4 Broker Responsibilities; Executive Brokers; Part-Time Brokers**
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6 ***SUMMARY:***

7 *Amends existing regulation to clarify that each Principal Broker is responsible for*
8 *their respective clients' real estate closing.*
9

10 (d) (1) The preparation of instruments in connection with a real estate rental or sale and the
11 closing of a sale by a licensee must be performed by or under the specific supervision of the
12 principal broker.

13 (2) It is generally the responsibility of the principal broker ~~of the listing firm~~ to ensure that
14 the real estate closing conducted on behalf of the principal broker's client(s) is conducted
15 properly and in accordance with the agreement of the buyer and seller. In those cases where the
16 listing principal broker is excluded from participating in the closing, such principal broker must
17 nevertheless make all reasonable efforts to fulfill this responsibility, and shall give written
18 instructions to the closing agent.
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3 **Regulation 10.8 Trust Funds; Trust Accounts.**
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5 ***SUMMARY:***

6 *Amends existing regulation to clarify that real estate contracts are sometimes*
7 *countered by the seller and accepted by the buyer.*
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10 (g) (1) No later than three (3) days following ~~acceptance of an offer~~ the execution of a real
11 estate contract by the seller, and buyer, all trust funds shall be either deposited in the trust account
12 or delivered to an escrow agent. All other funds delivered to the broker pending performance of
13 any act shall be, no later than three (3) days, either deposited in the trust account or delivered to
14 an escrow agent. Should the third (3rd) day be a Saturday, Sunday, or legal holiday, then the third
15 (3rd) day is extended to the next day which is not a Saturday, Sunday, or legal holiday. The broker
16 shall maintain an accounting of all funds paid to the broker and shall keep a signed receipt for any
17 funds the broker delivers to an escrow agent. The broker remains responsible for the funds if the
18 broker selected the escrow agent, but not if the parties selected the escrow agent. A broker shall
19 at all times keep detailed records of all funds coming into the broker's possession and all
20 disbursements made by the broker.
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3 Regulation 10.10 Agreements to be Written.

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5 **SUMMARY:**

6 *Amends existing regulation to clarify that licensees must provide clients and other*
7 *parties to the transaction who are not represented signed copies of real estate*
8 *agreements and contracts and requires exclusive agency agreements or contracts to be*
9 *in writing. Also recommends that licensee obtain written acknowledgement from buyer*
10 *and seller of receipt of signed agreements and contracts.*

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12
13 (a) Except as provided in Regulation 10.10(b), a licensee, for the protection of the public and
14 of all parties with whom the licensee deals, shall see that the exact agreement of the parties
15 regarding real estate is in writing; A licensee shall also see that clients and other parties to the
16 transaction who are not represented by any licensee receive copies of such agreements signed by
17 all parties. ~~and that signed copies of such agreements are delivered to all parties involved.~~
18 (Examples: Exclusive agency agreements or contracts, ~~Offer and acceptance~~ real estate contracts,
19 closing statements, lease agreements, management agreements, financial obligations and
20 commitments, etc.) It is strongly recommended that a licensee obtain written acknowledgement
21 from the buyer and or seller that the buyer and or seller have received said signed copies.

22 (b) It is strongly recommended that non-exclusive agency agreements or contracts be in
23 writing. ~~(Examples: Listing and Buyer Representation Agreements or Contracts)~~

1 "MARK-UP"

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3 **Section 15. Real Estate Auction Definitions and Requirements.**

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5 ***SUMMARY:***

6 *New regulations to establish definitions and requirements for real estate*
7 *licensees who sell real estate at auction.*

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10 Section 15. Real Estate Auction Definitions and Requirements

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12 Regulation 15.1. Definitions.

13 a. Absolute Auction means an auction where the real estate is sold to the highest
14 qualified bidder with no minimum bid or limiting conditions. The seller may not bid
15 personally or through an agent. Also known as an auction without reserve.

16 b. Auction with Reserve means an auction of real estate in which the seller or his
17 agent reserves the right to establish a disclosed or undisclosed minimum bid, to accept or
18 reject any and all bids and to withdraw the real estate at any time prior to the completion
19 of the sale by the auctioneer. Also known as reserve auction.

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21 Regulation 15. 2 Nature of Auction.

22 a. Auction shall be with reserve, unless the real estate is offered without reserve
23 using explicit terms such as "absolute" or "without reserve." In an auction with reserve,
24 the auctioneer may withdraw the real estate at any time until he announces completion of
25 the auction. In an auction without reserve, after the auctioneer calls for bids on the real
26 estate, that real estate cannot be withdrawn unless no bid is made within a reasonable
27 time.

28 b. The auctioneer shall have a written agreement with the owner stating the
29 parties' agreement regarding the terms and conditions of the auction including whether
30 the auction will be an absolute auction or auction with reserve.

31
32 Regulation 15.3. Auctioneer/seller Bidding or Purchasing Auctioned Real Estate.

33 a. Written agreement.

1 The auctioneer shall not bid or permit others to bid on his behalf on the real estate
2 or otherwise purchase the real estate unless he has a written agreement with the owner
3 permitting the auctioneer to bid on or purchase the subject real estate at the auction.

4 b. Auctioneer bidding.

5 The auctioneer shall not bid or otherwise purchase the real estate being auctioned, or
6 permit others to do so on his behalf, unless he has disclosed that he may bid or may
7 purchase the real estate as provided herein.

8 c. Seller bidding.

9 (1) In an absolute auction, the auctioneer shall not knowingly permit the seller or
10 others on the seller's behalf to bid on the seller's real estate being auctioned.

11 (2) In a reserve auction, the auctioneer shall not knowingly permit the seller or others
12 on the seller's behalf to bid on the seller's real estate being auctioned, unless the
13 auctioneer has disclosed that the seller or others on the seller's behalf may bid on the real
14 estate being auctioned as provided herein.

15 d. Notices.

16 (1) In order for the auctioneer or seller to bid or purchase the subject real estate as
17 provided herein, the auctioneer shall, at the auction, deliver or post written notice that the
18 auctioneer and/or the seller, or others on their behalf, may bid or may purchase the real
19 estate being auctioned. Said notice shall be of such size, format, location, and displayed
20 so as to reasonably assure that this notice is communicated to prospective bidders. It is
21 highly recommended that the real estate auctioneer obtain a written receipt of written
22 disclosure from each prospective bidder.

23 (2) Immediately prior to opening the bidding on the subject real estate, the auctioneer
24 shall announce if the seller and/or auctioneer or others on their behalf may bid on or
25 purchase the real estate being auctioned. Should the auctioneer or seller, or anyone on
26 behalf of either the seller or auctioneer, purchase the real estate being auctioned, the
27 auctioneer shall announce the identity of the purchaser of the real estate when he
28 announces completion of the auction of that real estate.

29 e. The auctioneer or others on his behalf cannot bid on or purchase the real estate
30 being auctioned, and the auctioneer shall not knowingly accept a bid from the seller or
31 others on the seller's behalf, unless all disclosures have been provided as set forth herein.